

HellerEhrman
ATTORNEYS



August 21, 2003

John H. Musser, Ph.D.
Vice President, Chemistry
Pharmagénésis, Inc.
3183 Porter Drive
Palo Alto, California 94304

James A. Fox, Ph.D.
jfox@hewm.com
(650) 324-6951
Main (650) 324-7000
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Re: U.S. Patent Application Serial No. 10/019,004
Filed: April 22, 2002
Title: *Hematopoietic Arabinogalactan Composition*
Inventors: An, et al.
Our Reference: 22001-0003

RECEIVED
NOV 13 2003
TECH CENTER 1600/2900

Dear Dr. Musser:

Enclosed is a copy of a final Office Action rejecting all claims in the above-identified case. Derek Freyberg wrote you regarding this Office Action on July 1, 2003; this message is to remind you that a response is preferably due before August 26, 2003; if filed before September 26, 2003, no fees will be due. Since this is a Final Office Action, the claims must be allowed, appealed, or a continuation application filed before the final deadline of December 26, 2003. Please be aware that no response may be filed after December 26, 2003.

In this action, all pending claims were rejected: claims 21-28 were rejected as anticipated by prior art; claims 21-28 were also rejected as obvious in view of the same prior art references. As Dr. Freyberg discussed in his letter, one can counter these rejections by arguing that the cited prior art does not anticipate or make obvious the claims; in particular, one could point out that the cited references do not disclose a weight average molecular weight of at least 100 kDa.

We would be happy to review these materials, formulate arguments, and prepare a response to these rejections. However, we must receive advance payment for such work before any work may be commenced. It is estimated that preparation of this response would require about \$2,000.00.

I look forward to your instructions regarding this matter.

Sincerely,

James A. Fox, Ph.D.

Enclosure

SV 450847 v1

Heller Ehrman White & McAuliffe LLP 275 Middlefield Road Menlo Park, CA 94025-3506 www.hewm.com

San Francisco Silicon Valley Los Angeles San Diego Seattle Portland Anchorage New York Washington D.C. Madison, WI
Hong Kong Singapore Kong Affiliated Offices: Rome Paris Milan



September 24, 2003

Via Facsimile 650-813-1828

Nicolas Druz
President
Pharmagenesis, Inc.
3183 Porter Drive
Palo Alto, California 94304

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Re: **UPCOMING DEADLINES**

Hematopoietic Arabinogalactan Composition

U.S. Patent Application Serial No. 10/019,004 - response to Final Office Action

Fees due after September 26, 2003

Chinese Patent Application No. 00811547.8 - response to Office Action

Instructions due October 10, 2003

Acid-Modified Hematopoietic Arabinogalactan Protein Composition

Entry into China deadline September 26, 2003 based on EPO

Dear Mr. Druz:

We have sent letters and left telephone messages for Dr. John Musser in an attempt to obtain instructions with regard to the responses due by the above-indicated deadlines for these Pharmagenesis patent applications. Dr. Musser has not responded; with this FAX we request a response from you.

Please contact us with your instructions so that we may respond to these actions. We require instruction from you in order to respond. **FAILURE TO RESPOND TO THESE ACTIONS LISTED ABOVE COULD LEAD TO ABANDONMENT OF THESE APPLICATIONS.**

I look forward to your instructions regarding these matters.

Sincerely,

James A. Fox, Ph.D.

Jim Fox

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*** TX REPORT ***

TRANSMISSION OK

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ST. TIME	10/23 18:52
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ATTORNEYS

October 23, 2003

**Via FAX to 650-813-1828 7 PAGES TOTAL
And Via Federal Express**

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**Re: Patent Application DEADLINES
REQUEST FOR INSTRUCTIONS**

RECEIVED

**NOV 19 2003
TECH CENTER 1600/2900**

Dear Mr. Druz:

As you know, we have repeatedly tried to contact you and others at Pharmagenesis regarding upcoming deadlines affecting Pharmagenesis patent applications. The present message is being sent via facsimile and Federal Express in an attempt to obtain the instructions that are necessary to prevent the abandonment of the Pharmagenesis patent applications.

PLEASE PROVIDE INSTRUCTIONS BEFORE OCTOBER 30, 2003

**FAILURE TO PROVIDE INSTRUCTIONS WILL LEAD TO THE ABANDONMENT OF
PHARMAGENESIS INTELLECTUAL PROPERTY AROUND THE WORLD.**

The most urgent actions include:

**Hematopoietic Arabinogalactan Composition
U.S. Application Serial N . 10/019,004**

REQUIRES INSTRUCTIONS FOR IMMEDIATE ACTION

IT BECOMES ABANDONED AFTER DECEMBER 26, 2003

(as stated in our FAXes and letters of August 21, 2003 and September 24, 2003)



September 24, 2003

Via Facsimile 650-813-1828

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Hematopoietic Arabinogalactan Composition

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I look forward to your instructions regarding these matters.

Sincerely,

James A. Fox, Ph.D.

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SV-457155-v1

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